Filed 10/18/04 Joshua S. v. San Bernardino Superior Court CA4/2

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

JOSHUA S., Petitioner, v. THE SUPERIOR COURT OF THE COUNTY OF SAN BERNARDINO, Respondent; SAN BERNARDINO COUNTY DEPARTMENT OF CHILDREN'S SERVICES, Real Party in Interest.	E036469 (Super.Ct.No. J186724) **OPINION**

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Raymond L. Haight III, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Petition denied.

William E. Drake for Petitioner.

No appearance for Respondent.

No appearance for Real Party in Interest.

Petitioner Joshua S. (Father) is the father of two-year-old D.S. Father filed this writ petition pursuant to California Rules of Court, rule 39.1B challenging an order setting a Welfare and Institutions Code section 366.26[1] permanency planning hearing as to the child. Father contends that there was insufficient evidence to support the juvenile court's order setting a section 366.26 hearing and that the court erred in finding that he was provided with reasonable reunification services. For the reasons provided below, we reject Father's challenge and deny his petition.

I

FACTUAL AND PROCEDURAL BACKGROUND

On February 13, 2003, a social worker from the San Bernardino County Department of Children's Services (DCS) responded to a call from Community Hospital in San Bernardino and was informed by the emergency room physician that he was caring for a six-month-old baby girl with a spiral fracture to her left leg. The police and the social worker were unable to determine how the baby received the fracture, but the mother (Mother) failed to provide adequate medical treatment to the baby in a timely manner. According to hospital personnel, the fracture may have occurred at least 24 hours earlier. The fracture required surgery and a body cast for the baby. Father was

[1] All future statutory references are to the Welfare and Institutions Code unless otherwise stated.

unwilling or unable to provide care or support for the baby. The baby and her two-year-old sibling, J.S.,[2] were placed in custody thereafter.

On February 18, 2003, DCS filed section 300 petitions on behalf of the children alleging that the baby, D.S., suffered serious physical harm (§ 300, subd. (a)), a spiral fracture to the left femur requiring surgery, due to Mother's inability to supervise and/or protect the child (§ 300, subd. (b)). The petitions also alleged that the parents failed to provide adequate medical treatment in a timely manner (§ 300, subd. (b)) and that Father was unwilling or unable to provide care or support for the children (§ 300, subd. (g)).

At the February 19, 2003, detention hearing, at which Mother was present but Father was not, the court found a prima facie case had been established for detention of the children out of the home and authorized the social worker to evaluate relative homes for possible placement of the children. The court also ordered the parents to keep DCS advised of their whereabouts and cooperate with the social worker.

In a jurisdictional/dispositional report dated March 12, 2003, the social worker recommended that the court find the allegations in the petitions true and sustain the petitions. The social worker further recommended that reunification services be provided to Mother. Mother reported that she and Father were never married but that Father had provided money for her and the children. The social worker noted prior allegations of severe neglect involving J.S., such as Mother failing to take J.S., who was born with a

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[2] J.S. is not a party to this appeal. Mother reported that the alleged father of J.S. is Vincent A., not Father.

liver disease, to the hospital; physical abuse of Mother by Father; and substance abuse by Mother. Mother had been arrested on a charge of destroying property (Pen. Code, § 594, subd. (a)) in August 2001, and Father had been arrested for assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)) in March 2001.

The emergency room physician's assistant reported that it was unusual for a six-month-old baby to have such a severe fracture. Mother stated that she did not know how the injury occurred but that she had left the baby with her roommate, who in turn left the baby with her 10-year-old sister. Mother denied causing the injury and stated her roommate's 10-year-old sister, whom she described as being "violent" toward children, might have caused the injury intentionally or by rough play. The 10-year-old denied hitting or hurting the baby. Essentially, no one admitted to injuring the baby, and no one stated they knew how the injury occurred. Father stated that he did not pay child support for the baby because he was not financially able to adequately provide for the baby and that he had another child he helped support.

On March, 12, 2003, the court held a jurisdictional/dispositional hearing, at which both parents were present. The parents denied the allegations in the petitions; after Father requested contested hearings, the jurisdictional and dispositional hearings were continued.

In an addendum report dated May 9, 2003, the social worker recommended that the court find the allegations in the petitions true and that reunification services be provided to Mother and Father. The social worker noted that evaluations of the baby's x-

rays and the baby indicated that she had sustained "a fracture of the distal right humorous [*sic*] at different ages" in addition to the acute spiral fracture of the left femur.

On June 12, 2003, DCS filed an amended section 300 petition on behalf of baby D.S. alleging that while in the care and custody of Mother, D.S. suffered a spiral fracture of the left femur and that a recent bone scan revealed a prior fracture of the distal right humerus at different ages which was consistent with physical abuse; that the baby received her injuries due to Mother's failure to supervise and/or protect the child adequately; that Father should have reasonably known that the child was at risk of physical abuse; that Father failed to protect the child; that the child suffered physical harm due to the parents' failure to provide adequate medical treatment in a timely manner; and that the child suffered severe physical abuse.

In an addendum report dated July 11, 2003, the social worker recommended that the court find the allegations in the amended petition true and that the parents be provided with reunification services. The social worker noted that D.S.'s medical reports indicated that she had fractures at different ages and that they were highly suspicious for child abuse. The social worker further reported that Mother had gone to a clinic and informed the psychologist that she was depressed and had thoughts of harming herself or the social worker. Mother had been drinking heavily and had intentions to harm the social worker. Subsequently, the psychologist sent a letter to the social worker informing the social worker of Mother's intentions. The social worker further noted that Father was not able to take custody of the child at that time.

On July 10, 2003, DCS filed a second amended petition on behalf of D.S. The second amended petition alleged the same allegations as the first amended petition but included an allegation that Mother had a history of substance abuse which impaired her ability to parent D.S.

In a detention report dated July 11, 2003, the social worker reported that Father had recently acquired his own apartment so that he might be able to take custody of his child.

The court held the contested jurisdictional/dispositional hearing on August 15, 2003, at which both parents were present. The court found the allegations in the second amended petition true, except as to the substance abuse allegation concerning Mother, and sustained the petition. The court declared D.S. to be a dependent of the court, maintained the baby in the care and custody of DCS, and approved the reunification plan as amended and ordered the parents to participate. The court granted the parents visitation at a minimum of one time per week supervised by DCS.

The reunification plan required Father to comply with all court orders; maintain a relationship with his daughter by following the conditions of the visitation plan; stay sober and free from alcohol and drug dependency; maintain a job; show age appropriate behavior towards the child; live a crime-free life; monitor the child's health, safety, and well-being; obtain and maintain a stable and suitable residence; not use physical abuse towards the child; and protect and care for the child. The plan also required Father to attend general counseling, parenting education, and substance abuse testing.

In a status review report dated February 17, 2004, the social worker recommended continuing reunification services to the parents. Mother, who remained unemployed and did not have any monetary aid, resided with friends but had refused to give DCS her address or telephone number. Father had been employed throughout the last reporting period and lived in an apartment with a roommate. However, the social worker had been unable to evaluate the home, and Father's roommate had not followed through with fingerprinting. D.S. had been developing well but had been diagnosed with a medical condition called third degree heart block on October 23, 2003. The recommendation for D.S. was to have open-heart surgery and have a pacemaker put in.

The social worker also noted that Father and Mother had received appropriate services. The social worker met with both parents and gave them copies of their service plans and referrals to appropriate services. Father was referred to parenting classes and had recently enrolled in a parenting class, but had not completed the course. Father was referred for drug testing on November 4, 2003; October 9, 2003; and January 9, 2004; however, Father had not followed up with any drug testing. The social worker received information from relatives that they had seen Father under the influence of alcohol and drugs. Father denied the allegations.

Up until August 28, 2003, Father had been participating in visitation on a weekly basis. However, on August 28, 2003, after the social worker placed the children with the maternal aunt, who lived in Inglewood, California, the parents had began having arguments and not getting involved with the children. Even after the parents and the maternal aunt agreed to meet half way to continue visitation in an open environment,

Father had failed to maintain regular visitation. During that period, since August 2003, Father had only visited with the children approximately three or four times. After the children were moved to the current caretaker's home on January 9, 2004, Father had contact with the children.

The social worker opined that the parents had not made adequate progress in their service plans and had not eliminated the risks at their homes for their children. However, the social worker believed that Father would likely regain custody of his daughter, D.S.

At the February 17, 2004, six-month review hearing, at which Father was not present, the court adopted the findings of the social worker's February 17, 2004, status review report and continued D.S. a dependent of the court. The court found that the parents had failed to participate regularly or complete their court-ordered treatment plan and authorized Father to have unsupervised visitation with his daughter.

In a status review report dated August 17, 2004, the social worker recommended that services for the parents be terminated and that a permanent plan be implemented, as the parents had failed to participate in their reunification plans. To date, the social worker had not received any proof that Father had attended or completed his parenting classes, he had not followed up with any drug testing, and his visitation with his child had been irregular. Since January 2004, Father had visited D.S. 12 times; however, other than attending visits, Father had not provided significant parenting for D.S. The social worker informed Father that his daughter was medically fragile and would have a pacemaker installed. The social worker was unable to give Father unsupervised visitation with his daughter until he had attended medical training with D.S.'s doctor and a DCS

public health nurse. The social worker encouraged Father to attend all of D.S.'s doctor appointments and to be present during D.S.'s surgery; however, Father never attended a doctor's visit and was not present at the surgery. Father had also failed to call to inquire about D.S.'s health and well-being. The social worker opined that Father's lack of interest and involvement in D.S.'s medical treatment was of the greatest concern and demonstrated a lack of ability to parent a child that is medically fragile.

At an August 17, 2004, hearing, the parents requested the 12-month review hearing be set as contested, and the matter was continued.

At the August 20, 2004, contested 12-month review hearing, the social worker testified that she asked Father to drug test in March 2004, but he failed to do so; that he failed to have his roommate fingerprinted so that Father could have overnight and extended visits with D.S.; and that in the last six months Father had more regular visits with D.S., and D.S. recognized Father and enjoyed the visits. However, the social worker did not allow Father unsupervised visits with D.S., and Father never asked for unsupervised visits, because D.S. was medically fragile and Father failed to attend or participate in D.S.'s doctor visits even though D.S.'s doctor was interested in educating Father regarding D.S.'s medical condition. Father even failed to attend D.S.'s open-heart surgery. Father had also failed to attend parenting classes, but on the day of the 12-month review hearing, Father provided the court with an unverified document that indicated that he had completed a parenting class. The social worker had no knowledge

that Father had completed a parenting class before the 12-month review hearing.[3] The social worker also had problems contacting Father. The social worker recommended terminating reunification services to Father based upon the fact that the child was two years old, and it had been 18 months since the child had been removed from Father's care. The social worker also explained that even though she had encouraged Father to take an active role in D.S.'s life and had explained the requirements of his reunification plan, Father had failed to actively participate in parenting D.S. and had failed to show an interest in D.S.'s fragile medical condition. The social worker opined that returning D.S. to Father's care and custody would pose a substantial risk to D.S., primarily because Father had not been, and was unwilling to be, educated regarding D.S.'s fragile medical condition. On the other hand, D.S.'s caretaker had taken time to educate herself regarding D.S.'s medical condition and was willing to adopt both D.S. and her brother.

Following arguments by counsel, the court adopted the social worker's recommendations, terminated reunification services to the parents, and set the matter for a section 366.26 selection and implementation hearing. The court explained that even though this case could justify giving Father more time, the 18-month cut-off period had run, and Father had failed to clearly complete his reunification plan. The court found by clear and convincing evidence that custody by the parents continued to be detrimental to

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[3] While the social worker testified, the court had its officer call the adult school to verify the parenting class document. The court officer was informed by the school that they had no record of Father ever being enrolled in a parenting class and that he had not been enrolled at the adult school since getting his G.E.D. in 2000.

the children; that the children's best interests required that custody continue to be taken from the parents; and that return of the children to the parents would create a substantial risk of detriment to the well-being of the children. The court also found by clear and convincing evidence that reasonable services had been provided to the parents but that the parents failed to participate regularly or complete their court-ordered treatment plans. That same day, Father filed a notice of intent to file a writ petition pursuant to California Rules of Court, rule 39.1B.

II

DISCUSSION

A. *Reasonableness of Reunification Services*

Father contends he was not provided with reasonable reunification services. We disagree.

We review the correctness of an order pursuant to section 366.21 to determine if it is supported by substantial evidence. (*In re Shaundra L.* (1995) 33 Cal.App.4th 303, 316.) That standard requires us to determine whether there is reasonable, credible evidence of solid value such that a reasonable trier of fact could make the findings challenged. (*In re Brian M.* (2000) 82 Cal.App.4th 1398, 1401.) In reviewing the reasonableness of the reunification services, we recognize that in most cases more services might have been provided, and the services provided are often imperfect. The standard is not whether the services provided were the best that might have been provided but whether they were reasonable under the circumstances. (*Elijah R. v. Superior Court* (1998) 66 Cal.App.4th 965, 969.) A court-ordered reunification plan

must be tailored to fit the circumstances of each family and designed to eliminate the conditions that led to the juvenile court's jurisdictional finding. (*In re Dino E.* (1992) 6 Cal.App.4th 1768, 1777.)

The record in this case, set out above, reveals the services offered were reasonable -- they were tailored to fit the circumstances and to eliminate the conditions that led to the juvenile court's jurisdictional finding -- and Father consented to them. From the inception of this case, the social worker took into consideration Father's status and D.S.'s medical condition and tailored the service plan accordingly. The record reveals that Father met with the social worker, who went over the service plan with Father, and that the social worker encouraged Father to take an active role in D.S.'s fragile medical condition. However, Father failed to take a parenting class, drug test (even though he was requested to do so numerous times), have his roommate fingerprinted so that he could get extended and unsupervised visits with his daughter, or get involved in D.S.'s medical treatment. Although Father regularly visited his daughter after January 2004 and his daughter enjoyed the visits, the record clearly shows, as the social worker pointed out, that Father never took an active role in parenting the child.

Substantial evidence reveals that reasonable reunification services were offered to Father. Further, the services offered were reasonably geared to overcoming the problems that caused the dependency and were appropriate under the circumstances. (See *In re Jasmon O.* (1994) 8 Cal.4th 398, 424-425; *In re Christina L.* (1992) 3 Cal.App.4th 404,

417.) The problem is not that inadequate services were offered, but that Father failed to take advantage of them.

Father's reliance on *In re Daniel G.* (1994) 25 Cal.App.4th 1205, *In re Brittany S.* (1993) 17 Cal.App.4th 1399, *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774 and *In re Precious J.* (1996) 42 Cal.App.4th 1463 is misplaced. In *Daniel G.*, the juvenile court ordered reunification services to the mother at the dispositional hearing, and the Los Angeles County Department of Children's Services failed to provide them. At the 18-month review hearing, the court found the department had not provided reasonable reunification services to the mother; nevertheless the court terminated reunification services. (*In re Daniel G.*, at pp. 1209, 1216.) The appellate court found that the juvenile court had the discretion to extend services past the 18-month review hearing and that its failure to exercise that discretion required reversal. (*Ibid*.) *Daniel G.* is distinguishable from the instant case. The juvenile court here consistently found that Father was provided with reasonable reunification services. Indeed, Father received services for approximately 18 months, from the time the original petition was filed in February 2003 until the contested 12-month review hearing on August 20, 2004, and it is clear that the social worker provided Father with services, unlike the social worker in *Daniel G.*, who had done little or nothing for the mother, and that Father had services available to him.

In *Brittany S.*, the service plan approved by the court failed to provide for visitation to the incarcerated mother. Although the juvenile court found that reasonable reunification services had been offered, the appellate court found that the findings were

not supported by substantial evidence. (*In re Brittany S.*, *supra*, 17 Cal.App.4th at p. 1406.) Since the mother had taken advantage of programs offered in prison and complied with her service plan, the lack of visitation required reversal: "By not providing visitation, SSA virtually assured the erosion (and termination) of any meaningful relationship between [the mother] and [the child]." (*Id*. at p. 1407.) Here, Father was provided with visitation with his daughter. Moreover, unlike the mother in *Brittany S.*, Father failed to take advantage of programs and failed to comply with his service plan.

Elizabeth R. involved a mentally ill mother who had complied with virtually all aspects of her reunification plan, had maintained a stable living situation, had received many months of intensive therapy, and had shown a likelihood of reunification. (*In re Elizabeth R.*, *supra*, 35 Cal.App.4th at pp. 1777, 1787, 1792.) The social worker, however, had worked a de facto termination of visitation while the mother was hospitalized for treatment of her mental illness. The juvenile court had expressed a desire to continue reunification services beyond the 18-month maximum but failed to recognize its discretion to continue the matter to accommodate the mother's special needs. Under those circumstances, the appellate court held that the juvenile court was not mandated to terminate services and set a termination hearing. (*Id*. at p. 1798.) The mother's circumstances in *Elizabeth R.* are a far cry, however, from Father's circumstances here. In the case before us, Father was consistently provided with visitation and reunification services but failed to take advantage of the services that were offered to him or to benefit from those services.

Precious J. also involved an incarcerated mother who was not provided visitation with her daughter. The appellate court held the evidence was insufficient to support the juvenile court's finding that adequate reunification services had been offered to the mother because the Contra Costa County Department of Social Services had failed to facilitate any visitation during the period the mother was incarcerated. (*In re Precious J.*, *supra*, 42 Cal.App.4th at pp. 1477-1478.) However, that case recognized that limiting visitation to phone calls and letters may be appropriate where the parent is incarcerated at some distance from the children. (*Id*. at pp. 1476-1477.) Here, Father's reliance upon *Precious J.* is inapposite, to say the least. As stated above, Father, who was neither incarcerated nor hospitalized in a mental institution, was consistently provided with visitation.[4]

Father was provided with more than sufficient visits with his daughter and in fact took advantage of regularly visiting his daughter after January 2004. However, Father failed to take an active role in parenting D.S. and failed to take the time to learn about D.S.'s fragile medical condition even though D.S.'s doctor was willing to educate Father on her condition, and the social worker encouraged Father to learn. Father even failed to attend his infant daughter's open-heart surgery. Reunification services are not inadequate simply because the parent is indifferent or unwilling to participate. (*In re Jonathan R.* (1989) 211 Cal.App.3d 1214, 1220.)

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[4] Nevertheless, Father claims that his "situation is nearly identical to that of the mother[s]" in *Precious J.* and *Elizabeth R*., although he was neither incarcerated nor

[footnote continued on next page]

Substantial evidence in this case shows Father was offered an array of services that were reasonable and appropriate. (See *In re Jasmon O.*, *supra*, 8 Cal.4th 398, 424-425.) Moreover, the record also shows that Father was well aware of the requirements of the reunification plan and failed to advise there were problems complying with it. By consenting and failing to object to the reunification service plan ordered by the juvenile court and implemented by the social worker, Father waived his claims regarding any inadequacy in the reunification services offered. (*In re Precious J., supra,* 42 Cal.App.4th at p.1476; *In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1338-1339, and cases cited therein; see also *In re Jesse W.* (2001) 93 Cal.App.4th 349, 355.) As our colleagues in division one stated in *In re Christina L.* (1992) 3 Cal.App.4th 404, "If Mother felt during the reunification period that the services offered her were inadequate, she had the assistance of counsel to seek guidance from the juvenile court in formulating a better plan: '"The law casts upon the party the duty of looking after his legal rights and of calling the judge's attention to any infringement on them. If any other rule were to obtain, the party would in most cases be careful to be silent as to his objections until it would be too late to obviate them, and the result would be that few judgments would stand the test of an appeal." [Citation.]' [Citation.]" (*Id*. at p. 416.)

Viewing the evidence in the light most favorable to DCS, we find that the services provided to Father were reasonable under the circumstances of this case.

[footnote continued from previous page]
hospitalized in a mental institution. These differences, of course, are enormous.

B. *Termination/Failure to Extend Reunification Services*

Father also contends the juvenile court erred in terminating reunification services and setting a section 366.26 hearing and in not extending reunification services for an additional six months. We find that the juvenile court did not abuse its discretion in terminating reunification services.

Section 361.5, subdivision (a) provides, in pertinent part: "For a child who, on the date of initial removal from the physical custody of his or her parent . . . , was under the age of three years, court-ordered services may not exceed a period of six months from the date the child entered foster care. [¶] . . . [¶] [C]ourt-ordered services may be extended . . . not to exceed 18 months after the date the child was originally removed from physical custody of his or her parent . . . . The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent . . . within the extended time period or that reasonable services have not been provided to the parent . . . ."

Based on a child's need for security and stability, the Legislature has set the 18-month review hearing as the cutoff date for family reunification services. (*In re Elizabeth R.*, *supra*, 35 Cal.App.4th 1774, 1778.) "At this hearing, the court must return children to their parents and thereby achieve the goal of family preservation or terminate services and proceed to devising a permanent plan for the children." (*Id*. at p. 1788, citing § 366.22.) A juvenile court has discretion to offer more than 18 months of reunification services in two, or at most three, situations, one of which does not apply

here (that is, where the child has been placed in long-term foster care (see *In re Andrea G.* (1990) 221 Cal.App.3d 547, 555)).

First, the court may offer additional services if it finds that reasonable reunification services have not been offered or provided. (*In re Barbara P.* (1994) 30 Cal.App.4th 926, 932-933; *In re David D.* (1994) 28 Cal.App.4th 941, 954, fn. 8; *In re Daniel G.*, *supra*, 25 Cal.App.4th 1205, 1212-1214; *In re Dino E.*, *supra*, 6 Cal.App.4th 1768, 1777-1778.) Thus, under exceptional circumstances, appellate courts have extended reunification services beyond the 18-month cutoff period. (*Andrea L. v. Superior Court* (1998) 64 Cal.App.4th 1377, 1388; *In re Brequia Y.* (1997) 57 Cal.App.4th 1060, 1067.) Such circumstances include where the mother was unavailable due to her hospitalization (*In re Elizabeth R.*, *supra*, 35 Cal.App.4th at pp. 1793-1799); where a mentally disabled parent was provided severely inadequate services (*In re Daniel G.*, at pp. 1213-1214); or where no reunification plan existed at all (*In re Dino E.*, at pp. 1777-1778).

In the present matter, as explained above, Father was provided with reasonable reunification services during the 18 months of services. Furthermore, no extraordinary circumstance is presented here. (See, e.g., *In re Barbara P.*, *supra*, 30 Cal.App.4th 926, 932-933; *In re David D.*, *supra*, 28 Cal.App.4th 941, 954, fn. 8; *In re Daniel G.*, *supra*, 25 Cal.App.4th 1205, 1212-1214; *In re Dino E.*, *supra*, 6 Cal.App.4th 1768, 1777-1778.) The record clearly shows that the services provided were reasonable and adequate. Father, however, failed to take advantage of the services offered to him and/or failed to benefit from those services.

Second, the juvenile court may offer more than 18 months of reunification services pursuant to a petition under section 388, based on changed circumstances indicating that a modification of its previous orders would be in the best interests of the children. (*In re Zacharia D.* (1993) 6 Cal.4th at pp. 454-455.) Father never filed a section 388 petition.

Furthermore, there was an insufficient probability that Father's daughter would be returned to the physical custody of Father and safely maintained in his home if he was allowed an additional six months of reunification services. (§ 366.21, subd. (g).) Indeed, as explained below, there was clear and convincing evidence to show that there was a substantial risk of detriment if the child was returned to the custody of Father.

Pursuant to section 366.21, subdivision (f), at the 12-month review hearing: "The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. . . . The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental."

Throughout the dependency proceedings here, Father had been informed of the requirements of his service plan, had been provided with services, and had been encouraged to participate in parenting his daughter and taking an active role. However,

Father failed to take advantage of those services. Father failed to attend parenting classes, he failed to drug test, he failed to have his roommate fingerprinted or his home examined, he failed to attend D.S.'s medical appointments, he failed to attend D.S.'s open-heart surgery, and he failed to learn about D.S.'s fragile medical condition. Indeed, substantial evidence shows that Father was unable to, and would be unable to, meet the physical, emotional, medical, and educational needs of his daughter as she required special care, treatment, and close monitoring. More than ample evidence also exists that returning the child to the custody of Father would subject the child to a substantial risk of detriment. Furthermore, no evidence was presented that an additional six months of reunification services would benefit his daughter. An additional six months for Father to complete his reunification plan would mean the child's life was still not permanently settled. On the other hand, D.S.'s and J.S.'s current foster mother was willing to adopt the children and had taken the time to be educated on D.S.'s fragile medical condition. The current foster mother had gone to all of D.S.'s medical appointments and learned about D.S.'s condition from D.S.'s cardiologist, and she attended a health and education session with DCS's public health nurse.

Thus, we find neither exceptional circumstances nor any substantial evidence in the present case which support continuation of reunification services. (Cf. *In re Elizabeth R.*, *supra*, 35 Cal.App.4th 1774, 1777-1778; *In re Daniel G.*, *supra*, 25 Cal.App.4th 1205, 1209.) Accordingly, the juvenile court did not err in terminating reunification services to Father and setting a section 366.26 hearing.

III

DISPOSITION

The petition for extraordinary writ is DENIED.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RICHLI
J.

We concur:

McKINSTER
Acting P.J.

GAUT
J.